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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,392	01/14/2004	Hiroaki Matsumoto	02410287US	1887

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EXAMINER

WILLIAMS, THOMAS J

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,392

Applicant(s)

MATSUMOTO, HIROAKI

Examiner

Thomas J. Williams

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/14/04; 6/23/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Acknowledgment is made in the receipt of the foreign priority papers, oath and information disclosure statement filed January 14, 2004, the information disclosure statement filed June 23, 2004 and the formal drawings filed on June 23, 2004.
2. The disclosure is objected to because of the following informalities: a review of the specification reveals several grammatical errors, for instance page 3 lines 3-4. It appears the specification is a literal translation, which renders some of the important points meaningless. Such as what exactly is meant by “a load applied ahead of the vehicle is released”? This needs to be corrected if one is to thoroughly comprehend what the applicant intends to claim as their invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claim 1 lines 18-19, the limitation of “a load applied ahead of the vehicle is released” renders the claim indefinite. As stated previously this phrase does not seem to capture the intent of the invention. For instance what type of load is present ahead of the vehicle that is being released? As best understood from the prior art a brake force distribution control is

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terminated after a load applied to the pedal is released. As such the claims will be interpreted in this manner.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,632,535 to Luckevich et al.

Re-claim 1, Luckevich et al. discloses a brake control apparatus, comprising: a brake pressure controlling unit (see figure 2); a control unit 62 performs brake force distribution control, wherein the normally open valves for the rear wheels are opened when the distribution control is terminated after the vehicle has stopped and a load applied to the pedal is released, see column 5 lines 65-67 to column 6 lines 1-12.

Re-claims 2 and 3, the brake force distribution is terminated after a predetermined time elapses (such as 1 second) from when a wheel speed, or vehicle speed, is smaller than a predetermined value. A zero wheel speed such as when a vehicle comes to a stop is smaller than any predetermined value.

Re-claim 10, see figure 2.

8. Claims 1, 4, 5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,938,299 to Hara et al.

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Re-claim 1, Hara et al. discloses a brake control apparatus, comprising: a brake pressure controlling unit (see figure 2); a control unit 60 performs brake force distribution control, wherein the normally open valves for the rear wheels are opened when the distribution control is terminated after the vehicle has stopped and a load applied to the pedal is released (step 1, see column 7 lines 42-44).

Re-claims 4 and 5, the brake force distribution is terminated after an estimated deceleration is reduced to be smaller than a predetermined deceleration from when a wheel speed, or vehicle speed, is smaller than a predetermined value, see column 7 lines 53-56.

Re-claim 10, see figure 2.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luckevich et al.

Re-claims 6 and 7, Luckevich et al. teaches the predetermined time frame as 1 second and not 300 msec. It would have been obvious to one of ordinary skill in the art as a matter of design choice to have reduced the time frame to 300 msec., since the applicant has not disclosed that having the predetermined time set at 300 msec. solves any stated problem or serves any particular purpose and it appears that the system of Luckevich et al. would have performed

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equally well with the predetermined time set at 300 msec. The reduced time would have allowed for quicker equalization of the cylinder pressures with the master cylinder.

Re-claim 8, Luckevich et al. teaches the predetermined wheel speed as being 2 km/h. It would have been obvious to one of ordinary skill in the art as a matter of design choice to have set the predetermined wheel speed at 2 km/h, since the applicant has not disclosed that having the predetermined wheel speed set at 2 km/h solves any stated problem or serves any particular purpose and it appears that the system of Luckevich et al. would have performed equally well with the predetermined wheel speed set at 2 km/h.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hara et al.

Hara et al. teaches the predetermined wheel speed set at 6 km/h. and not at 2 km/h. It would have been obvious to one of ordinary skill in the art as a matter of design choice to have reduced the predetermined wheel speed to 2 km/h, since the applicant has not disclosed that having the predetermined wheel speed set at 2 km/h solves any stated problem or serves any particular purpose and it appears that the system of Hara et al. would have performed equally well with the predetermined wheel speed set at 2 km/h.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nishizawa teaches a brake proportioning termination step.

13. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached at (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

November 4, 2004

THOMAS WILLIAMS
PATENT EXAMINER

Thomas Williams

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11/04/04